RELATED PARTY TRANSACTIONS POLICY

THABA CHWEU LOCAL MUNICIPALITY

1. INTRODUCTIONS

GRAP 20 is applicable to all entities on the accrual basis of accounting in identifying and disclosing related party relationships, transactions and balances at year – end, including commitments.

This policy framework shall be read in the context of the provisions of the following Acts, Regulations and Administrative Guidelines:

- Accounting guidelines, National Treasury, June 2012
- MFMA, Act 56 of 2003;
- GRAP 20

2. PURPOSE

This policy outlines the identification, treatment, recognition and reporting of Related party transactions in the municipality according to the requirements of the MFMA.

The accounting officer of an institution must ensure that internal procedures and internal control measures are in place for all payment approval and processing, including related party transactions. These internal controls should provide reasonable assurance that all expenditure is necessary, appropriate, paid promptly and is adequately recorded and reported on.

The objective of this Standard is to ensure that a reporting entity's financial statements contain the disclosures necessary to draw attention to the possibility that its financial position and surplus or deficit may have been affected by the existence of related parties and by transactions and outstanding balances with such parties.

3. DEFINITIONS

Related party transactions – is a transfer of resources or obligations between related parties, regardless of whether a price is charged.

Related party – parties are considered to be related if one party has the ability to control the other party or exercise significant influence over the other party in making financial and operating decisions, or if the related party entity and another entity are subject to common control.

Related parties include:

- Entities that directly, or indirectly through one or more intermediaries, control or are controlled by the reporting entity;

- Associates and joint ventures;

- Individuals owning, directly or indirectly, an interest in the reporting entity that gives them significant influence over the entity, and close member of the family of such an individual;
- Key management personnel, and close members of the family of key management personnel; and

- Entities in which a substantial ownership interest is held, directly or indirectly, by any person described in (c) or (d), or over which such a person is able to exercise significant influence.

Significant influence – is the power to participate in the financial and operating policy decision of an entity, but not control those policies.

Control – is the power to govern the financial and operating policies of another entity so as to benefit from its activities.

Joint control – is the agreed sharing of control over an activity by a binding agreement.

Entities – entities referred to in GRAP 20 and in this policy, i.e. for which this is applicable, are:

- Public entities;

- Constitutional institutions;

- Municipalities and all other entities under their control;

- Parliament and provincial legislature; and

- Trading entities (only effective from 1 April 2013).

Key Management personnel:

- all Directors or members of a governing body of the entity; other persons having the authority and responsibility for planning, directing and controlling the activities of the reporting entity. Where they meet this requirement key personnel include:

- where there is a member of the governing body of a whole-of government entity who has the authority and responsibility for planning, directing and controlling the activities of the reporting entity, that member (e.g. Councillors);

- any key advisor of that member; and unless included in (a), the senior management group of the reporting entity, including the chief executive or permanent head of the reporting entity (e.g. the Accounting Officer)

4. IDENTIFICATION

Parties are considered to be related if one party has the ability to **control** (or jointly control) the other party or exercise **significant influence** over the other party, or vice versa, or an entity that is subject to **common control**, or joint control.

As a minimum, the following are regarded as related parties of the reporting entity:
A person or a close member of that person's family is related to the reporting entity if that person:

- has control or joint control over the reporting entity;
- has significant influence over the reporting entity; or
- Is a member of the management of the entity or its controlling entity.
- An entity is related to the reporting entity if any of the following conditions apply:
- The entity is a member of the same economic entity (which means that each controlling entity, controlled entity and fellow controlled is related to the others);
- One entity is an associate or joint venture of the other entity (or an associate or joint venture of a member of an economic entity of which the other entity is a member);
- Both entities are joint ventures of the same third party;
- One entity is a joint venture of a third entity and the other entity is an associate of the third entity;
- The entity is a post-employment benefit plan for the benefit of employees of either the entity or an entity related to the entity. If the reporting entity is itself such a plan, the sponsoring employers are related to the entity;
- The entity is controlled or jointly controlled by a related person; and
- A person who has control or joint control over the reporting entity has significant influence over that entity or is a member of the management of that entity (or its controlling entity).

In identifying related party relationships, attention should be given to the substance of a relationship and not merely its legal form.

Where two entities have a member of management in common, it is necessary to consider the possibility, and to assess the likelihood, that this person would be able to affect the policies of both entities in their mutual dealings. However, the mere fact that two entities have a member of management in common does **not necessarily** create a related party relationship.

The following other instances also do **not necessarily** create related party relationships:

- Two ventures **merely** because they share joint control over a joint venture;
- Providers of finance and trade unions;
- A customer, supplier, distributor or general agent with whom an entity transacts a significant volume of business, **merely** by virtue of the resulting economic dependence. Other factors could, however, result in the parties being related.

5. IDENTIFICATION

Control is the power to govern the financial and operating policies of another entity so as to benefit from its activities.

An entity (or a person or body of persons) has control over another entity when it has certain decision-making capabilities over another and that it benefits from the activities of that entity.

Further indicators that can also individually or collectively be indicative of control are:

- The entity has the ability to veto operating and capital budgets of the other entity;
- The entity has the ability to veto, overrule, or modify the board of directors or equivalent governing body decisions of the other entity;
- The entity has the ability to approve the hiring, reassignment and removal of key personnel of the other entity;
- The mandate of the other entity is established and limited by legislation;
- The entity holds a “golden share” (or equivalent) in the other entity that confers rights to govern the financial and operating policies of that entity;
- The entity holds direct or indirect title to the net assets of the other entity;
- The entity has a right to a significant level of the net assets of the other entity in the event of a liquidation or in a distribution other than a liquidation;
- The entity is able to direct the other entity to co-operate with it in achieving its objectives;
- The entity is exposed to the residual liabilities of the other entity.

- In the South African context, the government is divided into three spheres, namely the national, provincial and local spheres of government. Although provinces and municipalities are responsible for executing its assigned functions in line with the overall policies and objectives set by the relevant national department, the autonomy of the different spheres is guaranteed in terms of the Constitution of South Africa and provinces and municipalities can therefore decide how it will achieve those objectives. The national government does not **control** provinces or municipalities for accounting purposes, although funding may be received from the national government.

  The following figure illustrates the related parties in the South African government context (note that the different spheres of government are not related to each other):

Local sphere:

For example: The City of Johannesburg and its municipal entities are related parties. The City of Tshwane and the City of Johannesburg are not related parties as they are not under common control.

6. IDENTIFICATION

Significant influence is the power to participate in the financial and operating policy decisions of an entity, but is not control over those policies.

Significant influence may be exercised in several ways, usually by representation on the board of directors or equivalent governing body but also by, for example, participation in the policy making process.

Significant influence may be gained by an ownership interest, statute, or agreement.

7. MANAGEMENT

Management are those persons responsible for planning, directing and controlling the activities of the entity, including those charged with the governance of the entity in accordance with legislation, in instances where they are required to perform such functions.

Management include any sub-committees of the governing body or key advisors of a member of management as well as the senior management group of the entity (if not part of the governing body of the entity).

Management hold positions of responsibility within an entity. They are responsible for the strategic direction and operational management of an entity and are entrusted with significant authority. This responsibility may enable them to influence the decisions of

the entity and therefore the benefits of office that may flow to them or their related parties.

In respect of a municipality, the accounting authority or all the members (e.g. major, speaker, council members), and their close family relatives, are related parties of the municipality.

The senior management team of entities across all spheres of government (including the chief executive or permanent head of the entity) also form part of management.

8. CLOSE FAMILY MEMBERS

Close members of the family of a person are those family members who may be expected to influence, or be influenced by, that person in their dealings with the entity. A person is considered to be a close member of the family of another person if they:

- are married or live together in a relationship similar to a marriage; or
- are separated by no more than two degrees of natural or legal consanguinity or affinity.

Close family members of management (and entities under significant influence of such individuals) are related parties of an entity.

The reason for the inclusion of close family members in the definition of a related party is to prevent entities from transacting with these individuals rather than with management in order to circumvent the disclosure requirements of the standard.

Judgement will be necessary in determining whether an individual should be identified as a close member of the family of an individual for purposes of related party disclosures.

9. RELATED PARTY TRANSACTIONS

A related party transaction is a transfer of resources or obligations between related parties, regardless of whether a price is charged.

According to GRAP 20, an entity should disclose all transactions with its related parties (refer to disclosure) other than transactions that would occur within:

- Normal supplier or client/recipient relationship on terms and conditions no more or less favourable than those which it is reasonable to expect the entity would have adopted if dealing with that individual entity or person in the same circumstances; and Terms and conditions within the normal operating parameters established by that reporting entity’s legal mandate.

10. DISCLOSURE

The minimum disclosure in the annual financial statements for related party relationships, transactions and balances are the following:

Accounting policies

" The municipality operates in an economic sector currently dominated by entities directly or indirectly owned by the South African Government. As a consequence of the constitutional independence of the three spheres of government in South Africa, only entities within the local sphere of government are considered to be related parties. Management are those persons responsible for planning, directing and controlling the activities of the entity, including those charged with the governance of the entity in accordance with legislation, in instances where they are required to perform such functions.

Close members of the family of a person are considered to be those family members who may be expected to influence, or be influenced by, that member of management in their dealings with the entity.

Only transactions with related parties where the transactions are not concluded within normal operating procedures or on terms that are not no more or no less favourable than the terms it would use to conclude transactions with another entity or person are disclosed.

The following are situations where related party transactions may lead to disclosures required by a reporting entity

- Rendering or receiving of services
- Purchases or transfers/sales of goods (finished or unfinished)
- Purchases or transfers/sales of property and other assets
- Agency arrangements;
- Leasing arrangements;
- Transfer of research and development;
- Licence agreements;

- Finance (including loans, capital contributions, grants whether in cash or in kind and other financial support including cost sharing arrangements); and

- Guarantees and collaterals;

- Settlement of liabilities

Management remuneration

An entity should disclose the remuneration of management per person and in aggregate, for each class of management, in the following categories:

- Fees for services as a member of management;

- Basic salary;

- Bonuses and performance related payments;

- Other short-term employee benefits;

- Post-employment benefits such as pensions, other retirement benefits, post-employment life insurance and post-employment medical care;

- Termination benefits;

- Other long-term benefits;

- Any commission, gain or surplus sharing arrangements; and

- Any other benefits received.

Entities shall make separate disclosures about the major classes of management that they have. For example, where an entity has a governing body, such as a board or a council, which is separate from its senior management group, disclosures about remuneration of the two groups must be made separately.

Where a person is a member of both the governing body and the senior management group, that person will be included in only one of those groups.

11. SUMMARY OF KEY PRINCIPLES

GRAP 20 sets out the principles for the identification and disclosure or related party relationships and transactions.

Identification

Parties are considered to be related if one party has the ability to **control** the other party or exercise **significant influence** over the other party in making financial and operating decisions or if the related party and other entity are subject to **common control**.

Related parties include:

- Entities that directly, or indirectly through one or more intermediaries, control, or are controlled by the reporting entity;
- Associates
- Joint ventures
- Individuals owning, directly or indirectly, an interest in the reporting entity that gives them significant influence over the entity, and close members of the family or any individual;
- Management, and close members of the family of management; and
- Entities in which a substantial ownership interest is held, directly or indirectly, by any person described in the two bullets above, or over which such a person is able to exercise significant influence.

All departments and public entities in the national sphere of government are related parties;

All departments and public entities in each province are related parties ;and

Each municipality and its own municipal entities are related parties. A municipality is not “related” to another municipality as they are not under common control.

The National government does not control provinces or municipalities for accounting purposes, although funding may be received from the national government.

Disclosure

The reporting entity must disclose:

- Relationships between an entity and its controlling entities (or entities that it controls) needs to be disclosed.
- The nature of its related party relationships;
- The types of transactions that have occurred' and
- The elements of the transactions necessary to clarify the significance of these transactions to its operations and sufficient to enable the financial statements to provide relevant and reliable information for decision-making and accountability purposes.

Disclosure of management information must also be made.

Entities are not required to disclose the value of transactions (other than those dealt with above) with other public sector entities where the transactions are concluded within normal operating procedures and on terms that are no more or no less favourable than the terms it would use to conclude transactions with another entity or person.

1. POLICY AUDIT

A periodic policy audit process shall be conducted either by the Finance section, or Municipal Manager, when deemed necessary. The Provincial Government and or Auditor-General may also audit and formally request amendment of the policy, as may required from time to time, to ensure appropriate application and compliance the relevant Treasury and MFMA regulations and other legislation.

2. POLICY AMMENDMENT

No amendment(s) may be made to any section of this policy without such amendment(s) first being:

- Consulted upon with the Chief Financial Officer and the Municipal Manager.
- Duly approved by the Council.